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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,793	02/05/2004	Lawrence A. Narkis	3876-00182	5195
7590	04/03/2006		EXAMINER	
ANDREW S. McCONNELL Boyle, Fredrickson, Newholm, Stein & Gratz, S.C. Suite 1030 250 East Wisconsin Avenue Milwaukee, WI 53202			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	
DATE MAILED: 04/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,793	NARKIS ET AL.	
	Examiner	Art Unit	
	Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 13-19 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 13-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dube et al in view of the disclosed prior art (page 4, lines 22-26). Dube teaches a shelf (Fig. 2) having rows of openings (3) wherein the openings each include a first open area and two second open areas extending from the first open area (which is defined by two arcuate edges between the second areas), wherein the second open areas each have a transverse dimension less than that of the first open area. Although no method per se is disclosed for forming the openings in the shelves of Dube, some manner of forming these openings would inherently be required as part of constructing the shelf structure provided. As for the shelf accessories, Dube teaches dividers (1) with tabs (5) insertable into the openings by placing the tabs therein (in both openings) and sliding them and the divider forward to lock the divider in place (see Figs. 6B-6D). The tabs (5) extend between two areas of the first opening without occupying either. Although Dube fails to teach a second shelf accessory with a mounting arrangement having an axially extending mounting structure, the disclosed prior art (page 4, lines 22-26; members 22, 24) does teach shelf accessories attachable to a shelf wherein two of the accessories include a mounting arrangement with an axially extending mounting structure. Since the first open areas of the openings of Dube are circular, accessories such as rods 22 of the

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disclosed prior art and fasteners 40 of member 24 of the disclosed prior art, would be insertable therein and attachable to the shelf in a conventional manner (their ends/threaded ends would extend through the circular holes; the threaded ends being attached underneath by nuts 42). It would have been obvious to one of ordinary skill in the art at the time of the invention to add other types of known shelf accessories, such as the divider and rods of the disclosed prior art, to the shelf members of Dube, depending on the desired need of the person using the shelf, i.e. for various organizational needs/depending on the types of articles to be stored on the shelves, for aesthetic reasons, etc.

Response to Arguments

Applicant's arguments filed January 12, 2006 have been fully considered but they are not persuasive.

Addressing the arguments concerning the Dube et al reference: Although it is agreed that tab 4 of Dube includes a tooth 6 that extends into the first opening when the divider is in place on the shelf, the examiner contends that tab 5 does not include this additional feature and that this tab still reads on the claimed tab and the tab/opening relationship limitations. See art rejection above. Furthermore, the claims are drafted using the open- ended transitional term "comprising" and thus do not exclude additional, unrecited elements, such as tab 4/tooth 6.

As for Dube not teaching plural uses for its shelf openings: as stated above in the art rejection, to add other types of known shelf accessories, such as the divider and rods of the disclosed prior art, to the shelf members of Dube, would depend on the

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desired need of the person using the shelf, i.e. for various organizational needs/depending on the types of articles to be stored on the shelves, for aesthetic reasons, etc. The construction of Dube's openings allowing for such a modification.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
March 30, 2006

JANET M. WILKENS
JANET M. WILKENS
PRIMARY EXAMINER
Adv 73(3)